
In the High Court of Punjab & Haryana at Chandigarh.

Date of decision : 13.12.2006.

Superintending Engineer and another Petitioners.
VS
Sucha Singh and another Respondents.

Coram Hon'ble Ms. Justice Kiran Anand Lall.

Present: Mr.D.S.Jandiala, Additional Advocate General, Punjab,
for the petitioners.
Mr.N.P.Singh, Advocate, for respondent no.1.

Kiran Anand Lall, J.

The petitioners terminated the services of respondent no.1-
workman, on 30.4.1997, without giving any notice, pay of notice period, or
retrenchment compensation, whereupon the latter raised the following
industrial dispute which was referred by the Punjab Government, through
the Labour Commissioner, Punjab, Chandigarh, vide Notification
No.ID/28833-34 dated 27.9.1999, to the Labour Court:-

*“Whether termination of services of Sh.Sucha
Singh workman is justified and in order? If not, to
what relief/ exact amount of compensation is he
entitled?”*

The Labour court set aside the termination order and passed an
award on 21.3.2002 (Annexure P1), directing the petitioners-herein to
reinstate the workman with continuity of service and with full back wages
from the date of termination i.e. 30.4.1997 till his actual reinstatement.

The petitioners have, now, impugned the award of the Labour
court, in this petition filed under Articles 226/ 227 of the Constitution of
India.

As per the case of the petitioners, the Labour court had not allowed proper opportunity to them for leading their evidence and had passed the award, ex-parte. On merits, it was pleaded that the workman had not completed service (as Beldar) of 240 days, in a calendar year, and, was, therefore, not entitled to the benefit of the provision contained in Section 25-F of the Industrial Disputes Act, 1947 (for short “the Act”). Recruitment had been totally banned by the Government vide order dated 16.10.1996 (Annexure P3) and, as such, the petitioners could not have continued with the service of respondent no.1.

The case of the workman before the Labour court (Re. Annexure P4) was that he was appointed as Beldar on a regular and permanent post, on permanent and regular basis, vide order dated 30.7.1996 by petitioner no.1, in a regular pay scale. This fact was not disputed, by the petitioners. Infact, it was admitted by them in their written reply, Annexure P2. After filing the written reply, they never put in appearance in the Labour court and were, therefore, proceeded ex-parte. As such, the evidence led by the workman regarding his appointment (as Beldar) on regular basis, termination of his services without any notice, pay of notice-period and retrenchment compensation; retention of persons junior to him, and recruitment of two new hands, Gurmit Singh and Kehar Singh, remained totally un rebutted. The onus of proving that termination of services of respondent no.1 was justified and in order, lay on the petitioners. But they completely failed to discharge the same. On the basis of evidence led by the workman, the Labour court held that he (workman) had worked with the petitioners with effect from 30.7.1996 to 30.4.1997, continuously, i.e. for more than 240 days in a calendar year, as Beldar, on a regular and

permanent post and, therefore, his services could not be terminated without complying with the mandatory provision of Section 25-F of the Act, and, accordingly, passed an (ex-parte) award directing them to reinstate him (respondent no.1) with continuity of service and with full back wages from the date of termination i.e. 30.4.1997 till his actual reinstatement.

During arguments, learned Additional Advocate General was unable to point out anything on record indicating that finding of the Labour court regarding respondent no.1 having worked with the petitioners for a period of more than 240 days in a calendar year and termination of his services without compliance of the mandatory provision of Section 25-F of the Act, was incorrect or was not based on evidence. In so far as Annexure P3 is concerned, the ban was put on the appointment of work-charged and adhoc employees, only. But, respondent no.1, as mentioned above, did not fall in either of these categories. Concededly, he had been appointed on a regular and permanent post, on permanent and regular basis. The petitioners, therefore, could not take any advantage of the contents of Annexure P3.

The award of the Labour court is, thus, perfectly valid. The same is, therefore, upheld and the petition is dismissed, as being without any merit.

13.12.2006.
vs.

(Kiran Anand Lall)
Judge.